

STATUS OF CLAIMS

Claims 1 - 73 are pending.

Claims 1 - 73 stand rejected by the Examiner.

Claims 17, 34, 36, 52-54 and 64 have been amended, without prejudice, herein.

REMARKS

Reconsideration of the present Application is respectfully requested.

Rejections based on 35 U.S.C. § 103 (a)

Claims 1-11, 13-17, 19-28, 30-34, 36-45, 47-50, 52-59, 61-62, 64-69 and 71-72 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh et al. (U.S. Patent No. 6,574,465) in view of Chow et al. (U.S. Patent Application Publication No. 2002/0058495). Claims 12, 29, 46, 60 and 70 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh et al. and Chow et al., and in further view of Chung et al. (U.S. Patent No. 6,532,366). Claims 18, 35, 51, 63 and 73 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh et al. and Chow et al., and in further view of Dahm et al. (U.S. Patent No. 6,597,903). Applicant respectfully traverses the rejection of these claims for at least the following reasons.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Regarding independent Claim 1, Examiner asserts that Marsh et al. discloses a business method for providing wireless communications services to one or more users of the services, comprising: charging the user a flat rate for a period of time. This is simply not the case. Marsh discloses a “a system and method for *determining* optimal wireless communication service plans.” (col. 1, lines 51-53, emphasis added) Marsh teaches only analytical steps, such as receiving information, processing information, creating a historical record of the information, analyzing the information, determining an optimal plan, and producing a report of that determination. (col. 2, lines 8-22) Thus, Marsh does not disclose, or even suggest for that matter, any flat rate charging in regard to a wireless communications service as claimed in Claim 1. Therefore, Applicant respectfully submits Marsh does not teach the referenced elements of Claim 1.

Examiner also asserts that Chow et al. teaches, in an analogous art, allowing a user unlimited access to the wireless communications services during the period of time. Chow teaches providing a local cordless service. It is well understood that a cordless service is distinct from a wireless or cellular service, at least in that cordless service suffers from a substantially decreased range, and operates at wholly different frequencies, than does cellular or wireless service. In fact,

Chow teaches away from use of a cellular service, stating “the present invention of providing a local cordless services also differs from a typical cellular telephone service or personal communications service (PCS), in that both of these conventional services charge air time beyond a flat rate for service. In other words, these conventional services apply an additional per-minute charge for use of the radio frequency spectrum.” (page 3, paragraph 33) Thus, Chow does not teach, or even suggest for that matter, providing a wireless communications service as claimed in Claim 1.

For at least the same reasons regarding Claim 1 above, independent Claims 19, 36, 52-54 and 64 are patentable over Marsh and Chow. Additionally, Applicant has amended Claims 17, 34, 36, 52-54 and 64 to further elucidate Applicant’s invention, principally by clarifying that the calls originate from the limited geographic location. Chow provides a cordless service to a user within a “Home Neighborhood Zone” or a “Visiting Neighborhood Zone”. While these zones may be of different shapes, they are fixed startpoint-to-endpoint call zones. (page 3, paragraph 36) Whatever the shape of the zone, the zone must contain the “calling and callable population of subscribers.” (page 3, paragraph 36) Thus, both the user making the call and the person receiving the call must both be within that particular zone defined for that flat rate plan. In stark contrast, Applicant’s invention as claimed in Claims 17, 34, 36, 52-54 and 64 requires only that the caller be within the geographically limited area when placing the call, and does not place any restrictions on the location of the person receiving the call. As such, Chow teaches away from the present invention in that Chow would defeat the use of the present invention, at least by virtue of the fact that, for the present invention, if a user is to use a cellular device in place of a landline phone at locations within the limited geographical area, that cellular device must be able to place calls out to any location from within the calling region, and not just place point-to-point calls restricted to having the caller and call receiver within a particular zone, as is taught by Chow.

Further, in rejection of dependent Claims 12, 18, 29, 35, 46, 51, 60, 63, 70 and 73, Examiner cites Chung et al. or Dahm et al. Chung teaches an interactive method that optimizes telephone usage for a call or set of calls. (col. 1, lines 66-67) Dahm teaches a system for providing subscriber loyalty and retention techniques. (col. 2, lines 25-26) For the same reasons as explained above, neither Chung nor Dahm teach or even suggest the providing of unlimited wireless communication services for a flat rate for a period of time, as referenced in independent Claims 1, 19, 36, 52-54 and 64.

Applicant thus respectfully submits that each of the cited references, either separately or in combination, do not teach, or even suggest for that matter, each of the limitations of independent Claims 1, 19, 36, 52-54 and 64. Applicant further submits that Claims 2-11, 13-17, 20-28, 30-34, 37-45, 47-50, 55-59, 61-62, 65-69 and 71-72 are similarly distinguishable over the prior art of record, at least by virtue of their ultimate dependency from patentably distinct base Claims 1, 19, 36, 52-54 and 64.

CONCLUSION

Wherefore, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,

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